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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,726	08/10/2001	Daniel William Britton	38961-14	4810

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EXAMINER

LERNER, AVRAHAM H

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 05/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/925,726

Applicant(s)
Britton et al.

Examiner
Avraham Lerner

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3611



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 3, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above, claim(s) 29-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-22, and 25-28 is/are rejected.
- 7) ☒ Claim(s) 8-10, 23, and 24 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6 6) ☐ Other:

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DETAILED ACTION

Election/Restriction

1. Applicant's election without traverse of species I in Paper No. 10 is acknowledged. As applicant stated, claims 1-28 read on the elected embodiment, and claims 29-44 are withdrawn from consideration.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3, 6, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 3 is confusing in that it contradicts preceding claim 2. Claim 2 recites that the elongate cross member is substantially inextensible, and claim 3 recites that the same member has a capability of limited stretch under loads beyond a selected level, which is essentially the definition of an extensible element. An extensible element has the capability of limited stretch under loads beyond a selected level, whereas an "inextensible" element would break, not stretch as recited in claim 3.

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5. Claim 6 recites the limitation "the cable length" in line 1. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 14 includes a second positive recitation of the left rear wheel and right rear wheel, thereby confusing the scope of the claimed subject matter.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

8. Claims 13-17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kassai (U.S. Patent No. 4,317,581).

Kassai discloses a stroller comprising all elements as claimed, including forward and rear ends, a plurality of wheels for supporting the stroller, a frame as claimed, a seat supported from the frame, a relative wheel positioning means, as broadly recited, for selecting and maintaining the spacing of at least one front wheel relative to at least one rear wheel, a mechanism for adjusting

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the spacing between the front wheel and the rear wheels (see Figs. 5, 6), the relative wheel positioning means being two elongate members (18) each extending to act between the front wheel supports and rear wheel supports to control the spacing therebetween. Note that regarding claim 20, the elongate members may be considered “flexible” in that the members inherently have a degree of flexibility.

9. Claims 1-3 (as best understood), 7, and 12-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Shamie (U.S. Patent No. 5,622,376).

Shamie discloses a stroller comprising all elements as claimed, including forward and rear ends, a plurality of wheels for supporting the stroller, a frame as claimed, a seat (not shown, inherent) supported from the frame, a relative wheel positioning means (e.g. 32 or 68,72), as broadly recited, for selecting and maintaining the spacing of at least one front wheel relative to at least one rear wheel, a mechanism for adjusting the spacing between the front wheel and the rear wheels, the relative wheel positioning means being two elongate members (18) each extending to act between the front wheel supports and rear wheel supports to control the spacing therebetween, a mechanism to adjust the length of the elongate members (e.g. hinge mechanism, see Fig. 4) and wherein the elongate members may be considered “flexible”, inextensible, and/or having the capability of limited stretch, as broadly and indefinitely claimed.

10. Claims 1-7 (as best understood), 11-14, 16-19, 22, and 25-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Mitzman (U.S. Patent No. 6,357,784 B1).

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Mitzman discloses a stroller comprising all elements as claimed, including forward and rear ends, a plurality of wheels for supporting the stroller, a frame as claimed, a seat (not shown, inherent) supported from the frame, a relative wheel positioning means (e.g. 13a, 13b), as broadly recited, for selecting and maintaining the spacing of at least one front wheel relative to at least one rear wheel, a mechanism for adjusting the spacing between the front wheel and the rear wheels, the relative wheel positioning means being two elongate members (13a, 13b) each extending to act between the front wheel supports and rear wheel supports to control the spacing therebetween, a mechanism to adjust the length of the elongate members (e.g. hinge about axis 14) and wherein the elongate members may be considered “flexible”, inextensible, and/or having the capability of limited stretch, as broadly and indefinitely claimed, a pivotal connection bracket (18) having a mechanism for handle height adjustment (see column 5, lines 9-11).

Allowable Subject Matter

11. Claims 8-10, 23, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kassai (U.S. Patent No. 4,191,397), Kassai (U.S. Patent No. 4,697,823), Shamie (U.S. Patent No. 5,622,377), Huang (U.S. Patent No. 5,775,718), Song et al. (U.S. Patent No. 5,988,670), Hanson et al. (U.S. Patent No. 6,270,111 B1), and Tomasi et al. (U.S. Patent Application Publication No. 2002/0113414) disclose strollers having relative wheel positioning means as claimed.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avraham Lerner whose telephone number is (703) 308-0423.

AVRAHAM LERNER
PRIMARY EXAMINER

A. Lerner 5/19/2003

May 19, 2003